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| 10/755,021 | 01/08/2004 | Steven K. Colten | 33296-pa | 8949 |
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| BERNHARD KREten, ESQ & ASSOCIATES 1331 GARDEN HIGHWAY SUITE 300 SACRAMENTO, CA 95833 | | | VALENTI, ANDREA M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3643 | |

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/755,021

Applicant(s)

COLTEN, STEVEN K.

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 13-16, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. US 2004/0079291 to Romatowski in view of European Patent EP 0972442 to Thaler et al.

Regarding Claim 1, Romatowski teaches the improvement which comprises the bottom of the cat litter waste receptacle being located lower than said bottom surface of said litter box (Romatowski top surface of platform receives litter box and waste receptacle is the bag attached to element #18 and page 2, claim 1, first line).

Romatowski teaches that the platform is used in combination with self-cleaning or self-raking cat litter box having a waste holder (Romatowski page 1, paragraph [0004], first line and paragraph [0006]), but is silent on the particulars of the automated litter box system. However, Thaler teaches a litter box (Thaler Fig. 1 #21 and 71) configured to contain animal litter therein; said litter box having a bottom surface for placement on a solid environmental surface; an automatic waste removing device (Thaler #44) which is configured to automatically remove animal waste and clumped litter from said litter box; a waste receptacle (Thaler #68) connected to said litter box, said waste receptacle having a bottom at one end and an aperture located at another end wherein said

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aperture is positioned and configured to receive said animal waste (Thaler #72) and clumped litter which is removed from said litter box whereby said waste and clumped litter pass through said aperture and accumulate in said waste receptacle; said waste receptacle including a lid (Thaler #68) which covers said aperture to thereby enclose said waste receptacle; a lid opening and closing device (Thaler #76) connected to said lid to open and close said lid. It would have been obvious to one of ordinary skill in the art to modify the teachings of Romatowski with the teachings of Thaler at the time of the invention since the modification is merely the selection of a known self-cleaning litter box system as taught by Romatowski selected for the advantage of preventing injury to the cat as taught by Thaler (Thaler Col. 2 paragraph [0011] and [0007]).

Regarding Claim 2, Romatowski as modified teaches said bottom surface of said litter box rests on a top surface of an elevated platform, said elevated platform being elevated relative to the bottom of said waste receptacle whereby said bottom of said waste receptacle is lower than a bottom surface of said platform (Romatowski top surface of platform Fig. 3 receives bottom of litter box and waste receptacle bag attaches to element #18).

Regarding Claim 3, Romatowski as modified teaches at least one animal access ramp (Thaler #350) connected thereto wherein said ramp either extends downward from the lid of said waste receptacle or extends downward from said litter box.

Regarding Claim 4, Romatowski as modified teaches said ramps wherein said one ramp extends downward from said lid (Thaler Fig. 22 #69 and 350).

Regarding Claim 5, Romatowski as modified teaches the elevated platform is elevated by at least one support member (Romatowski #16a-d), which is attached to said platform and which extends downward therefrom.

Regarding Claim 6, Romatowski as modified teaches at least one support member comprises a plurality of legs (Romatowski #16a-d).

Regarding Claim 13, Romatowski as modified teaches a replacement animal waste receptacle (Romatowski abstract line 4) which includes an aperture for the introduction of animal waste into said receptacle wherein said replacement animal waste receptacle and aperture thereof are configured to replace the waste receptacle and aperture of said automated litter box system so that after replacement of said waste receptacle by said replacement waste receptacle, said waste and clumped litter pass through the aperture of said replacement animal waste receptacle and collect in said replacement animal waste receptacle, with the proviso that said replacement animal waste receptacle is also inherently configured to extend from a point above said platform (Thaler #68 to Romatowski #12) to a point below said platform when said litter box system is placed on said platform and said waste receptacle of said litter box system is replaced by said replacement waste receptacle, whereby said replacement waste receptacle has a larger volume (Romatowski paragraph [0006] relative to a volume of said waste receptacle of said automated litter box system; and an animal access ramp (Thaler #350) which inherently is connected to said apparatus wherein said ramp has an upper end and a lower end wherein said upper end is positioned above said platform whereby said ramp extends downward from above said platform to

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provide access by an animal to said automated litter box system when said system is placed on top of said platform.

Regarding Claim 24, Romatowski as modified teaches placing the automated litter box system on the apparatus and replacing the waste receptacle of the automated litter box with the replacement receptacle (Romatowski claim 1).

Regarding Claim 23, Romatowski as modified teaches an apparatus for increasing waste storage capacity of an automated litter box system wherein said apparatus comprises: a plurality of support members (Romatowski #16a-d); means for joining said support members to create a stable platform on which a pet litter box is placed (Romatowski Fig. 3 and claim 1; applicant has defined "means for" in specification as any known friction connecting device such as nails, staples, glue etc page 11, line 10); a conveyance element (Thaler #350) to provide pet access from a floor to said platform; and means for joining said conveyance element with said platform; whereby said automated litter box system will be elevated off of said floor or off of a planer resting surface such that a pet owner can use a larger conventional waste storage container to collect pet waste therein to thereby reduce the frequency in which the pet owner needs to empty the waste collection container, resulting in less required from the pet owner to maintain the litter box in a sanitary manner (Romatowski abstract).

Regarding Claim 14, Romatowski as modified inherently teaches the ramp is configured so that said upper end of said ramp lies adjacent to said lid of said

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automated litter box system when said system is placed on top of said platform (Thaler #350).

Regarding Claim 15, Romatowski as modified teaches the elevated platform is elevated by at least one support member (Romatowski #16a-d), which is attached to said platform and which extends downward therefrom.

Regarding Claim 16, Romatowski as modified teaches at least one support member comprises a plurality of legs (Romatowski #16a-d).

Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. US 2004/0079291 to Romatowski in view of European Patent EP 0972442 to Thaler et al as applied to claims 1-6 and 13-16 above, and further in view of U.S. Patent No. 3,828,733 to Correia.

Regarding Claims 7 and 17, Romatowski as modified teaches said plurality of legs comprise at least two platform support panels (Romatowski #16a-d the legs themselves are the support panels) wherein said platform support panels have an upper end attached to said platform (Romatowski Fig. 3) and the volume underneath the litter box is for storing articles, but is silent on a base underneath said platform wherein said base is spaced apart from the bottom surface of said platform; and a lower end of the support panels are attached to said base. However, Correia teaches a platform with support panels and a base (Correia #18, #22, Fig.1, and Fig. 4). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Romatowski with the teachings of Correia at the time of the invention for the advantage of providing

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more stability to the structure to prevent it from sinking in soft ground, for a larger surface area for placement on carpeting, etc.

Claims 8-12 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. US 2004/0079291 to Romatowski in view of European Patent EP 0972442 to Thaler et al and U.S. Patent No. 3,828,733 to Correia as applied to claims 1-7 and 13-17 above, and further in view of U.S. Patent No. 5,394,835 to Gatta.

Regarding Claims 8 and 18, Romatowski as modified teaches an extension (Correia #52 the horizontal portion resting on and parallel to the ground surface) of said base wherein said extension extends underneath said ramp, said extension of the base having one end connected to a lower end of said ramp whereby said ramp extends downward from said lid to said one end of the extension of said base.

Romatowski as modified is silent on and said automated litter box system further comprises a pair of ramp support panels which extend downward from an edge on either side of said ramp to the extension of said base. However, Gatta teaches a ramp up to the entrance of an animal litter system with side panels on either side of the ramp (Gatta Fig. 1 #18 and Fig. 7). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Romatowski as modified by Thaler with the teachings of Gatta at the time of the invention for the a finished aesthetic look and to prevent the cat from having access and getting stuck underneath the ramp. Romatowski as modified by Gatta teaches the ramp, said ramp support panels, said lid and said

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extension of said base define a waste collection volume of said waste receptacle; said waste receptacle having a height which extends vertically from a bottom of said lid to said extension of said base (Romatowski area under element #12).

Regarding Claims 9 and 19, Romatowski as modified teaches said waste receptacle further comprises a disposable waste collecting container located in said volume of said waste receptacle wherein said container has an opening at one end thereof, said opening of said container being connected around a periphery of said aperture whereby said waste and clumped animal litter passes through said aperture and collects in said disposable container (Romatowski abstract and #12).

Regarding Claims 10 and 20, Romatowski as modified teaches said base and said platform are substantially horizontally disposed and said platform support panels and said ramp support panels are substantially vertically disposed (Romatowski Fig. 3 platform, Correia #18 Fig. 4 base, Romatowski #16 support panels, and Thaler #350 ramp).

Regarding Claims 11 and 21, Romatowski as modified teaches said disposable container is a bag (Romatowski abstract line 4) with an opening at one end thereof and the opening of said bag is connected to said aperture by a collar (Romatowski #20) wherein said collar is configured to attach to the periphery of said aperture.

Regarding Claims 12 and 22, Romatowski as modified teaches said bag is attached to said collar by a clips (Romatowski #18 paragraph [0023] and [0028]. Romatowski is silent on a plurality of clips; however, it would have been obvious to one of ordinary skill in the art to further modify the teachings of Romatowski at the time of

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the invention since the modification is merely the duplication of a known element for a multiple effect performing the same intended function modified for the advantage of making the attachment point adjustable to different heights along element #12 to accommodate different size garbage bags.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Automated animal toilet: French Patent FR 2693349; U.S. Patent Pub. No. US 2003/0217700; U.S. Patent No. 6,126,015; U.S. Patent No. 5,279,248; U.S. Patent No. 6,205,954; U.S. Patent No. 6,701,868; U.S. Patent No. 5,544,620

Elevated animal litter system: U.S. Patent No. 3,482,546; U.S. Patent No. 5,803,016; U.S. Patent Pub No. US 2002/0069830

Waste Receptacle: U.S. Patent No. 3,735,735; U.S. Patent No. 4,886,014; U.S. Patent No. 5,226,388

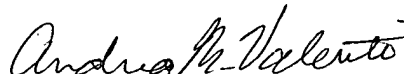
Ramp: U.S. Patent No. 5,329,878; U.S. Patent No. 6,418,880; U.S. Patent No. 5,329,879

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Patent Examiner
Art Unit 3643

08 February 2005